

UNITED STATES DEPARTMENT OF AGRICULTURE
PRODUCTION AND MARKETING ADMINISTRATION

TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch)

[General Sugar Regs., Series 3, No. 2, Amdt. 4]

PART 801—GENERAL SUGAR REGULATIONS

ADMINISTRATION OF SUGAR QUOTAS AND HEARING PROCEDURE

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948 (61 Stat. 922; 7 U. S. C. 1100) and the Administrative Procedure Act (60 Stat. 237), General Sugar Regulations, Series 3, No. 2, as amended (13 F. R. 127, 1076, 2063, 4590) are hereby amended as hereinafter set forth.

Basis and purpose. This amendment is issued pursuant to the Sugar Act of 1948 and establishes the practice and procedure applicable to the holding of public hearings in connection with the determination of fair prices and fair wages and in connection with recommendations issued under section 409 of the act.

General Sugar Regulations, Series 3, No. 2, as amended are hereby further amended to add a new Subpart G as follows:

SUBPART G—PRACTICE AND PROCEDURE APPLICABLE TO PRICE AND WAGE PROCEEDINGS AND TO PROCEEDINGS UNDER SECTION 409 OF THE SUGAR ACT OF 1948

- Sec.
801.101 Definitions.
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AUTHORITY: §§ 801.101 to 801.109 issued under Pub. Law 388, 80th Cong.; 61 Stat. 922.

§ 801.101 *Definitions.* (a) The term "act" means the Sugar Act of 1948 (61 Stat. 922, 7 U. S. C. Supp. 1, 1100-1160);

(b) The term "Department" means the United States Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture or any officer or employee of the Department to whom the Secretary delegates authority to act in his stead;

(d) The term "FEDERAL REGISTER" means the publication provided for by the act of July 26, 1935 (49 Stat. 500), and the acts supplementary thereto and amendatory thereof;

(e) The term "price and wage proceeding" means a proceeding arising under section 301 of the act;

(f) The term "Hearing Clerk" means the Hearing Clerk, United States Depart-

ment of Agriculture, Washington, D. C.; and

(g) The term "presiding officer" means any employee of the Department designated by the Secretary to conduct hearings under sections 301 and 409 of the act.

§ 801.102 *When hearing held.* The Secretary shall annually hold or cause to be held, pursuant to section 301 of the act, one or more hearings for the purpose of receiving evidence which may be of assistance to him in determining (a) fair and reasonable prices for sugar beets and sugarcane, and (b) fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugar beets or sugarcane. Due notice and opportunity for hearing shall be given to persons employed in the production, cultivation, or harvesting of sugar beets or sugarcane, and to the producers and processors of sugar beets and sugarcane.

§ 801.103 *Notice of hearing—*(a) *Filing and giving notice.* (1) Upon his decision to hold a hearing for the purpose stated in § 801.102, the Secretary shall issue a notice of hearing, which shall be filed with the Hearing Clerk, who promptly shall mail a true copy thereof to grower and labor groups or organizations known to be interested in the proceeding. The Hearing Clerk shall give or cause to be given further notice of the hearing in the following manner:

(i) By publication of such notice in the FEDERAL REGISTER; and

(ii) By issuing a press release containing the complete text or a summary of the contents of such notice.

(2) Legal notice of the hearing shall be deemed to be given if notice is given in the manner provided in subparagraph (1) (i) of this paragraph, and failure to give notice in the manner otherwise provided in subparagraph (1) of this paragraph shall not affect the legality of this notice.

(b) *Proof of mailing or of giving notice.* Proof of the mailing of the notice of the hearing and of other means of giving notice shall be by affidavit or certificate of the person making or giving the same. Such affidavits or certificates shall be filed with the Hearing Clerk and the filing thereof shall be noted on the docket of the proceeding.

(c) *Contents.* The notice of hearing shall contain a statement of the purpose of the hearing, including the complete text, or a summary thereof, of any determination that is to be proposed by the Department at the hearing, and a statement of the time and place for the hearing. The time of the hearing shall not be less than 10 days after the date of publication of the notice in the FEDERAL REGISTER, unless the Secretary shall determine that an emergency exists which requires a shorter period of notice,

in which case the period of notice shall be that which the Secretary may determine to be reasonable in the circumstances.

§ 801.104 *Docket number.* Each proceeding, immediately following the filing of the notice of hearing, shall be assigned a docket number by the Hearing Clerk, and thereafter the proceeding shall be referred to by such number.

§ 801.105 *Conduct of hearing—*(a) *Presiding officer.* Each such hearing shall be presided over by such employee or employees of the Department as the Secretary may designate for the purpose. The hearing shall be conducted in such a way as to afford to interested persons a reasonable opportunity to be heard on matters relevant to the issues involved and so as to obtain a clear and orderly record.

(b) *Continuance of hearing.* Each such hearing shall be held at the time and place set forth in the notice of hearing, but may at such time and place be continued by the presiding officer from day to day or adjourned to a later date or to a different place without notice other than the announcement thereof at the hearing.

(c) *Order of procedure.* At the commencement of the hearing, the presiding officer shall file as an exhibit for the record a copy of the FEDERAL REGISTER containing the notice of the hearing, and shall then outline briefly the procedure to be followed. Evidence shall then be received with respect to the matters specified in the notice of hearing in such order as the presiding officer shall prescribe.

(d) *Submission of evidence.* All interested persons appearing at the hearing shall be given reasonable opportunity to offer evidence with respect to the matters specified in the notice of hearing. Every witness shall, before proceeding to testify, be sworn, after which he shall state his name, address, and whom he represents at the hearing, and shall give such other information respecting his appearance as the presiding officer may request. The presiding officer shall confine the evidence to the questions before the hearing but shall not apply the technical rules of evidence. Affidavits as to relevant facts may be admitted in evidence at the hearing. Every witness shall be subject to questioning by the presiding officer or by any other representative of the Department, but cross-examination by other persons shall not be allowed, except in the discretion of the presiding officer.

(e) *Transcript of the evidence.* Testimony given at the hearing shall be reported verbatim. All supporting written statements, charts, tabulations, or similar data offered in evidence at the hearing, and which are deemed by the presiding officer to be authentic and rel-

evant, shall be numbered as exhibits and received in evidence and made a part of the record. Unless the presiding officer finds that the furnishing of copies is impracticable, four copies of the exhibits shall be submitted and in typewritten, printed, or mimeographed form. If sufficient copies are not available, the presiding officer may have any exhibit read in evidence or may require additional copies to be furnished within a specified time.

(f) *Written arguments.* The presiding officer shall announce at the hearing a reasonable period within which interested persons may file with the hearing clerk written arguments based on the evidence received at the hearing. Written arguments will not be accepted unless an original and three copies are filed. The period for filing written arguments may be extended by the presiding officer for good cause.

(g) *Copies of the transcript.* Any person desiring a copy of the transcript of testimony shall be entitled thereto upon written application filed with the reporter, and upon payment of fees at the rate provided in the contract between the reporter and the Secretary.

§ 801.106 *Preparation and issuance of determination.*—(a) *Preparation of proposed determination.* Within a reasonable time after the expiration of the pe-

riod allowed for the filing of written arguments, the presiding officer, or such employees of the Department as may be assigned for the purpose, shall prepare such proposed determination as is appropriate and practicable.

(b) *Submission of proposed determination to the Secretary.* Immediately upon completion of its preparation, the proposed determination shall be submitted to the Secretary for approval and issuance. The proposed determination shall contain a statement of the bases and considerations upon which such determination was made and shall be accompanied by a memorandum containing a summary of the evidence contained in the record and of any other factual data to which consideration shall have been given in the formulation of the proposed determination.

(c) *Publication of the determination.* Whenever any determination of the Secretary in any price and wage proceeding is issued, a duplicate thereof shall be filed with the Hearing Clerk for public inspection, and the full text of such determination shall be promptly published in the FEDERAL REGISTER. Upon application to the Hearing Clerk, any person shall be entitled to a copy of such determination.

§ 801.107 *Revision or amendment of determination.* Any determination issued in a price and wage proceeding may

be revised or amended without the holding of a new hearing.

§ 801.108 *Procedure governing proceedings under section 409.* Whenever, upon request of persons constituting or representing a substantial proportion of the persons affected in any one of the domestic sugar-producing areas, the Secretary shall determine to hold a public hearing under the authority of section 409 of the act, the procedure governing such hearing shall be that provided by §§ 801.103 to 801.105.

§ 801.109 *Preparation and issuance of recommendations under section 409.* The provisions of § 801.106 shall be applicable to any recommendations made by the Secretary with respect to (a) the terms and conditions of contracts between producers and processors of sugar beets and sugarcane, and (b) the terms and conditions of contracts between laborers and producers of sugar beets and sugarcane.

Rescission of prior regulations. Sections 801.101 to 801.109 shall supersede the rules of practice issued October 1, 1946 (7 CFR Cum. Supp. 801.101-801.111).

Issued this 5th day of October 1948.

[SEAL]

CHARLES F. BRANNAN,
Secretary.

[13 F. R. 5903]

